

MICHAEL J. BAKER (No. 56492)  
WILLIAM J. LAFFERTY (No. 120814)  
LONG X. DO (No. 211439)  
HOWARD RICE NEMEROVSKI CANADY  
FALK & RABKIN  
A Professional Corporation  
Three Embarcadero Center, 7th Floor  
San Francisco, California 94111-4024  
Telephone: 415/434-1600  
Facsimile: 415/217-5910

Attorneys for Plaintiffs  
ATR-KIM ENG FINANCIAL CORPORATION  
and ATR-KIM ENG CAPITAL PARTNERS,  
INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ATR-KIM ENG FINANCIAL  
CORPORATION and ATR-KIM ENG  
CAPITAL PARTNERS, INC.,

Plaintiffs,

v.

HUGO BONILLA and MONICA  
ARANETA,

Defendants.

Case No.

NOTICE OF REMOVAL PURSUANT  
TO 28 U.S.C. §1452

[Originally filed in San Mateo County  
Superior Court as action no. CIV 460691  
on February 2, 2007]

[NO HEARING REQUESTED]

[JURY TRIAL DEMANDED]

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1452

PLEASE TAKE NOTICE that Plaintiffs ATR-Kim Eng Financial Corporation and ATR-Kim Eng Capital Partners, Inc. (collectively "Plaintiffs"), hereby remove the above-entitled action from the Superior Court of the State of California, County of San Mateo, to the United States District Court for the Northern District of California, San Francisco Division, pursuant to 28 U.S.C. section 1452(a) and Federal Rule of Bankruptcy Procedure ("FRBP") 9027. In support of removal, Plaintiffs allege as follows:

1. On February 2, 2007, Plaintiffs filed an action entitled *ATR-Kim Financial Corporation and ATR-Kim Eng Capital Partners, Inc. v. Hugo Bonilla, Monica Araneta, Dora M. Aberouette, Michelle Bonilla and Does 1-50* in the Superior Court for the State of California, County of San Mateo, designated as Case No. CIV 460691 (the "Action"). Defendants currently named in the Action—Hugo Bonilla and Monica Araneta (collectively, "Defendants")—have been duly served with the Summons and First Amended Complaint in the Action. Copies of the pleadings and process filed in the Action are attached hereto as follows:

Exhibit 1: Complaint to Set Aside Fraudulent Transfer, Annul Obligation and for Damages;

Exhibit 2: Civil Case Cover Sheet;

Exhibit 3: 30 Day Summons, Issued and Filed;

Exhibit 4: Affidavit of Personal Delivery by M. Javillonar;

Exhibit 5: Notice of Pendency of Real Property Claim (Lis Pendens), filed February 6, 2007;

Exhibit 6: Notice of Pendency of Real Property Claim (Lis Pendens), filed February 9, 2007;

Exhibit 7: First Amended Complaint to Set Aside Fraudulent Transfers, Annul Obligations and for Damages;

Exhibit 8: 30 Day Summons, Issued and Filed;

Exhibit 9: Notice of Pendency of Real Property Claim (Lis Pendens), filed February 20, 2007;

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1452

1 Exhibit 10: Notice of Pendency of Real Property Claim (Lis Pendens), filed February  
2 21, 2007;

3 Exhibit 11: Proof of Service (Personal) of First Amended Complaint and Summons  
4 Served on Albert K. Martin;

5 Exhibit 12: Proof of Service (Personal) of First Amended Complaint and Summons  
6 Served on Dora M. Aberouette;

7 Exhibit 13: Proof of Service by Mail of First Amended Complaint and Summons  
8 Served on Monica Araneta;

9 Exhibit 14: Proof of Service (Personal) of First Amended Complaint and Summons  
10 Served on Michelle Bonilla;

11 Exhibit 15: Monica Araneta's General Denial to Unverified First Amended Complaint

12 Exhibit 16: Notice of Automatic Stay Under Bankruptcy Code;

13 Exhibit 17: Request for Dismissal of First Amended Complaint of ATR-Kim Eng  
14 Financial as to Defendants Dora M. Aberouette and Michelle Bonilla; and

15 Exhibit 18: Notice of Entry of Dismissal as to Defendants Dora M. Aberouette and  
16 Michelle Bonilla and Proof of Service.

17 The Action remains pending in the San Mateo County Superior Court as of the date of this  
18 Notice.

19 2. On March 16, 2007, Defendant Hugo Bonilla ("Bonilla") commenced a Chapter 7  
20 bankruptcy case by filing a voluntary petition ("Voluntary Petition") in the United States  
21 Bankruptcy Court for the Northern District of California, San Francisco Division, designated  
22 as Case No. 07-30309 (the "Bankruptcy Case"). A copy of Bonilla's Voluntary Petition is  
23 attached hereto as Exhibit 19. The filing of the Bankruptcy Case automatically stayed the  
24 Action pursuant to 11 U.S.C. section 362(a).

25 3. This Notice is filed within the time allowed for the removal of civil actions pursuant  
26 to FRBP 9027(a)(2)(B). On November 15, 2007, this Court in the Bankruptcy Case issued an  
27 Order Approving Stipulation For Relief From Stay To Allow Removal Of State Court Action,  
28 a copy of which is attached hereto as Exhibit 20. The Order states, "the automatic stay of

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1452

1 Section 362(a) of the United States Bankruptcy Code is hereby modified to permit ATR to  
 2 remove to this Court the California state court action styled *ATR-Kim Financial Corporation*  
 3 *and ATR-Kim Eng Capital Partners, Inc. v. Hugo Bonilla, Monica Araneta, Dora M.*  
 4 *Aberouette, Michelle Bonilla and Does 1-50*, San Mateo County Superior Court No. CIV  
 5 460691.” See Ex. 20 at 1:26-2:2. Accordingly, the deadline for filing this Notice is Monday,  
 6 December 17, 2007, which is the first day not falling on a holiday or weekend that is “30 days  
 7 after entry of an order terminating a stay, if the claim or cause of action in a civil action has  
 8 been stayed under § 362 of the Code.” FRBP 9027(a)(2)(B).

9 4. The United States District Court for the Northern District of California (and the  
 10 Bankruptcy Court which is a unit of the District Court) have original jurisdiction over this  
 11 Action pursuant to 28 U.S.C. section 1334(b) in that the Action is a proceeding “related to” a  
 12 case under the Bankruptcy Code (the Bankruptcy Case), which is currently pending in the  
 13 Northern District of California Bankruptcy Court, San Francisco Division. The Action seeks  
 14 to set aside as a fraudulent transfer certain real property transferred by Defendant Bonilla to  
 15 Defendant Monica Araneta.

16 5. The Action is “related” to the Bankruptcy Case within the meaning of 28 U.S.C.  
 17 section 1334(b) because the outcome of the Action “could conceivably have an effect” on the  
 18 estate being administered in the Bankruptcy Case and “impacts upon the handling and  
 19 administration of the bankrupt estate.” *In re Fietz*, 852 F.2d 455, 457 (9th Cir. 1988)  
 20 (quoting and adopting test of “related to” jurisdiction under 28 U.S.C. section 1334(b) set  
 21 forth in the seminal case of *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3rd Cir. 1984)). The  
 22 relief sought in the Action would result in the subject real property being included in the  
 23 estate in the Bankruptcy Case.

24 6. The Action is removable to this Court pursuant to 28 U.S.C. section 1452(a) in that  
 25 the Action is a civil action (other than a proceeding before the United States Tax Court or a  
 26 civil action by a governmental unit to enforce such governmental unit’s police or regulatory  
 27 power) which is pending in a court that is located in the District of this Court, and this Court  
 28 has original jurisdiction pursuant to 11 U.S.C. section 1334(b).

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §1452

1 7. The Action is a "core proceeding" within the meaning of 28 U.S.C. section 157(b),  
2 as it is a "proceeding to determine, avoid, or recover fraudulent conveyances." 28 U.S.C.  
3 §157(b)(2)(H).

4 8. Plaintiffs certify that a copy of this Notice will be promptly filed with the Clerk of  
5 the San Mateo County Superior Court and served on all parties to the Action.

6  
7 DATED: December 10, 2007

8 HOWARD RICE NEMEROVSKI CANADY  
9 FALK & RABKIN  
A Professional Corporation

10 By   
11 WILLIAM J. LAFFERTY

12 Attorneys for Plaintiffs ATR-KIM ENG  
13 FINANCIAL CORP. and ATR-KIM ENG  
14 CAPITAL PARTNERS, INC.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation